

ORDINANCE NO. 1916

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE TITLE 2 – ADMINISTRATION AND FINANCE, TITLE 19 – ZONING ORDINANCE, AND TITLE 14 – SIGN ORDINANCE.

(Milwaukie Planning Department Files ZA-01-03 and ZA-02-01)

WHEREAS, the City of Milwaukie desires to review, and amend its Zoning and Sign Ordinances on a regular basis; and

WHEREAS, the City adopted the Downtown and Riverfront Land Use Framework Plan, the Downtown Zones land use designations and Design and Development Standards, and the Public Area Requirements in November, 2000, and these establish policies and standards to help guide revitalization of downtown Milwaukie; and

WHEREAS, The proposed regulations are consistent with and serve to implement the Downtown and Riverfront Land Use Framework Plan; and

WHEREAS, The proposed regulations are consistent with policies and objectives of the Comprehensive Plan Chapter 4, Land Use, Economic Base and Industrial / Commercial Land Use Element, Objective 12 - Town Center; and

WHEREAS, Stakeholder outreach and public information efforts have included individual notice to property and business owners, public workshops and articles in the city newsletter, The Pilot; and

WHEREAS, on February 25, 2003, the Planning Commission and Design and Landmarks Commission held a public hearing and adopted motions recommending the City Council approve the proposed amendment; and

WHEREAS, review of the proposed land use change has been coordinated with the appropriate neighborhood groups and affected agencies; and

WHEREAS, the City Council held a duly advertised Public Hearing on April 1, 2003;

WHEREAS, public agency notice of applications ZA-01-03 and ZA-02-01 have been provided in accordance with the Milwaukie Municipal Code and Oregon Revised Statutes.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings of fact in support of these amendments contained in application ZA-01-03 and ZA-02-01.

Applications ZA-01-03 and ZA-02-01 and the code amendments proposed therein are consistent with Zoning Ordinance 19.902 - Amendment Procedure and 19.905 - Approval Criteria for all Amendments and 19.1011.5 - Legislative Actions as shown in Exhibit C. The findings included in Exhibit C are adopted as the Council's findings and incorporated herein by the reference.

Section 2. Milwaukie Municipal Code Title 2: Administration and Finance and Milwaukie Municipal Code Title 19: Zoning Ordinance (Ordinance 1712) are amended as shown in Exhibit A.

Section 3. Milwaukie Municipal Code Title 14-Sign Ordinance is amended as shown in Exhibit B.

Read the first time on April 1, 2003, and moved to second reading by 4 - 0 vote of the City Council.

Read the second time and adopted by the City Council on April 1, 2003.

Signed by the Mayor on April 2, 2003.


James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, Corrigan & Bachrach, LLP


Pat DuVal, City Recorder

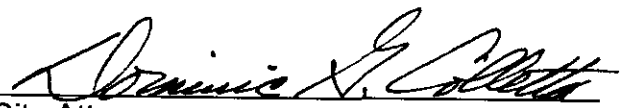

City Attorney

Exhibit A
Amendments to Milwaukie Municipal Code

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TITLE 2 – ADMINISTRATION AND PERSONNEL

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Section 2.10.010 Applicability.

D. ~~Historic resources commission~~ Design and Landmarks Commission (MMC 2.18).

Section 2.18.010 Established--Purpose.

D. Review and recommend appropriate design guidelines and design review processes and procedures to the City Council.

TITLE 19 - ZONING ORDINANCE

19.312.7 Design Review.

A. Purpose

Design Review is intended to achieve the following purposes:

1. Preserve and enhance the character of Downtown Milwaukie;
2. Ensure a degree of order, harmony, and quality in the Downtown Zones, providing buildings and projects that are attractive individually yet contribute to a downtown that is unified and distinctive as a whole; and
3. To ensure that new development and alterations or enlargement of existing development are consistent with the Downtown Design Guidelines and Downtown and Riverfront Land Use Framework Plan.

B. Applicability

All new construction and changes to buildings and/or properties in the Downtown Zones involving exterior maintenance and repair, minor exterior alterations, and

major exterior alterations as defined in section 19.312.6.B are subject to design review in accordance with the procedures as outlined below under Section 19.312.7.E.

C. Design Guidelines

Design Guidelines shall be established for the Downtown Zones and shall be considered as part of Design Review applications in accordance with the provisions of Section 19.312. The Design Guidelines shall be adopted by resolution of the City Council, in accordance with the procedures of Section 19.1011.5.

D. Duty to Review – Planning Director

The Planning Director shall review each application for a building permit or other approval in the Downtown Zones. The purpose of this review is to ensure that improvements within the downtown zones maintain consistent standards of design and to ensure that development is consistent with adopted design guidelines.

E. Application Procedure

Applications for Design Review shall be processed in accordance with chapter 19.1000 Type I, Type II, and Minor Quasi-Judicial procedures as indicated in this section, as follows:

1. Exterior maintenance and repair, as defined in Section 312.6.B.1, shall be processed as a Type I Review in accordance with the procedures in Section 1011.1. Exterior painting, repair, and refurbishing of existing building materials that does not require a building permit shall be exempt from Type I Review.
2. Minor exterior alterations, as defined in Section 312.6.B.2, shall be processed as a Type I Review in accordance with the procedures in Section 1011.2. The Planning Director may change a Type I review to a Type II review upon finding the following:
 - a. The work is visible from streets, courtyards, and/or public squares and significantly changes the architectural character of the building, which may include changes to exterior wall materials and changes in architectural style; and/or
 - b. The work is inconsistent with the downtown design guidelines.
3. Major exterior alterations, as defined in Section 312.6.B.3 shall be processed as Minor Quasi-Judicial Review in accordance with the

procedures in Section 1011.3. Applications for major exterior alterations shall be heard in a public hearing and decided by the Design and Landmarks Commission, except as follows:

The following major exterior alterations shall be processed by Type II Review:

- a. Additions not more than 250 square feet in floor area that do not face streets, courtyards, and/or public squares and are not designed and used for utility, HVAC, or other mechanical equipment, building upgrades as needed to comply with the Americans with Disabilities Act, or egress required by applicable fire safety or building codes.
- b. Demolition or replacement of no more than 25 percent of the surface area of any exterior wall or roof that does not face streets, courtyard, and or public squares.

4. Residential.

- a. "Stand-alone" residential buildings that do not include non-residential uses are exempt from design review, but shall be subject to the clear and objective design standards under Section 19.312.6. Applicants may elect to process a "stand alone" residential building design review.
- b. Mixed-use buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under Section 19.312.6. The non-residential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.

Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the Design and Landmarks Commission.

F. Application

Applications for Design Review shall be filed with the Planning Department on forms prescribed by the Planning Director. Design Review applications shall include a narrative explaining how the development considered each of the downtown design guidelines. The applicant shall demonstrate consistency with the design guidelines and compliance with applicable zoning criteria. In addition to all information specified on the "Submission Requirements" and "Site Plan Checklist" forms, each application for design review shall be accompanied by the following information:

1. Completed Design Review Checklist.
2. Written statement that describes how the proposal meets applicable design guidelines. Where a guideline is not met, the applicant shall provide justification indicating why it is not applicable or demonstrate other site or project characteristics that warrant an exception.
3. Show footprints of surrounding buildings, including driveways and pedestrian connections.
4. Location, dimension, and setbacks of all proposed buildings, structures, walls and fences.
5. Dimensioned building elevations indicating height, exterior materials, colors and details of exterior architectural features, such as cornices, windows and trim.
6. A streetscape drawing showing the relationship of the proposed project to adjacent buildings.
7. Frontage improvements in the public right-of-way per the public area requirements.

G. Approval Criteria for Design Review

The approval authority may approve, approve with conditions, or deny design review based on the following approval criteria:

1. Compliance with Title 19; and
2. substantial consistency with the Downtown Design Guidelines; and
3. submission of a complete application and applicable fee as adopted by the City Council.

H. Report and Recommendation by Design and Landmarks Commission

When an application also requires Planning Commission approval, the Planning Director for Type II reviews, or Design and Landmarks Commission for Minor Quasi-Judicial reviews, shall make a written report of its recommendation concerning the design to the Planning Commission. After receiving the Planning Director's or Design and Landmarks Commission's recommendation, the Planning Commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.

I. Variances to Development Standards

The Design and Landmarks Commission may authorize variances to the Development Standards under Section 19.312.4 in accordance with procedures of Section 19.700.

J. Modification of Design Standards

The Design and Landmarks Commission may authorize modification of the Design Standards under Section 19.312.6.C, in accordance with the following procedures.

A modification to a design standard may be granted at a public hearing in accordance with Section 19.1011.3 when the following criteria is satisfied:

1. The modification is integral to the overall design concept for the building;
2. The modification:
 - a. Substantially meets the intent of the design standard;
or
 - b. In combination with other design elements of the project, the modification meets the intent of the design standard; and
3. The project is substantially consistent with the Downtown design guidelines applicable to the design standard.

Section 19.323.4 Design and Landmarks Commission.

- A. Appointment and Composition. The Design and Landmarks Commission shall have five members appointed by the City Council for three-year terms. The City Council shall have discretion to reappoint or remove commissioners. One of the members of the commission shall have demonstrated special interest, experience, training, or knowledge in the field of historic preservation or history. One of the members of the commission shall have demonstrated special interest, experience, training, or knowledge in the field of architecture, planning, landscape design or similar field. Notwithstanding Section 2.10.030.H, one member of the Planning Commission may simultaneously serve on the Design and Landmarks Commission.

Section 19.700 Variances, Exceptions, and Home Improvements Exceptions.

Section 19.701 Variances.

The Planning Commission, Design and Landmarks Commission as provided in Section 19.312.7.H or Planning Director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the Planning Commission, Design and Landmarks Commission, or Planning Director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title.

Section 19.1011 Procedures.

19.1011.2 Type II Administrative Review. A Type II procedure provides for an administrative decision with the option of a public hearing.

- A. Public notification. Within fifteen days of the receipt of an application, the Director will mail a notice of tentative decision. This notice shall contain a description of the request and shall describe the tentative decision made by the Director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the Director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant, and all property owners within three hundred feet of the outer boundaries of the site. For applications in the downtown zones, notice shall also be given to the Design and Landmarks Commission. The names and addresses used for this purpose shall be those shown on the current records of the County Assessor. At least fourteen days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.
- B. Administrative Action. If a public hearing is requested, the application shall follow the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review. The Director or the applicant may immediately request a public hearing if it appears that the application has potential for controversy or there is difficulty in applying the applicable criteria. If no request for a public hearing is received by the Community Development Director, the Director may grant the application, either with or without conditions, without a hearing, if applicable criteria are met. The applicant, property owner, and all property owners within the notification area shall be renotified if a final decision is changed. If either the applicant or persons

with concerns are not satisfied with the Director's decision, they may appeal per the provisions of Section 19.1002 and the matter will be subject to the provisions of subsection 19.1011.3, Minor Quasi-Judicial Review.

- C. Public Hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule" outlined by the Community Development Department and shall follow procedures outlined in subsection 19.1001.3, Minor Quasi-Judicial Review. For applications in the downtown zones, a Design and Landmarks Commissioner may request the application be set for public hearing before the Design and Landmarks Commission.

19.1011.3 Minor Quasi-Judicial Review. A minor quasi-judicial procedure requires a public hearing in front of the Planning Commission or the Design and Landmarks Commission, as specified in this section. The Design and Landmarks Commission shall consider downtown design review, variances to developments standards in the downtown zones, and historic resource review. The Planning Commission shall consider all other minor quasi-judicial matters.

- E. Decision. The Planning Commission or Design and Landmarks Commission shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable comprehensive plan goals and policies and other applicable implementing ordinances. Community Development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five days after the final decision.

19.1011.5 Legislative Actions. Legislative actions provide for the establishment and modification of legislative land use policies and plans. This includes, but is not confined to a zoning ordinance or comprehensive plan text amendment, adoption of a neighborhood plan or area design guidelines, or establishment of a plan district.

- A. Public Notification. Notice of a hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the city, of which the second publication shall not be less than five days prior to the date of the hearing. Preliminary neighborhood meetings or other public meetings may be held, as appropriate, prior to the public hearing.
- B. Decision. The Planning Commission, or Design and Landmarks Commission as provided in section 19.3.12 shall conduct a public

hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan. The Planning Commission or Design and Landmarks Commission shall prepare a recommendation to the City Council. If the commission denies the proposal, and it was the initiator of the proposal, the matter shall be terminated. If the proposal was initiated by the City Council and the commission denies it, the proposal shall be forwarded to City Council with a report and recommendation of denial. If the proposal is approved by the commission, a report and recommendation, including findings and conclusions, shall be forwarded to Council. The City Council shall conduct a public hearing. Public notification of this hearing shall be given as per subsection A above. (Ord. 1762 (part), 1994)

Section 19.1012 Recess of hearing.

The Planning Commission, ~~or City Council~~ or Design and Landmarks Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced.

Exhibit B
Amendments to Milwaukie Municipal Code
Title 14 – Sign Ordinance

(Milwaukie Planning Department File ZA-02-01)

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Section 14.04.030 Definitions.

"Downtown Zones" means the DS, Downtown Storefront; DC, Downtown Commercial; DO, Downtown Office; DR, Downtown Residential; and DOS, Downtown Open Space zones as defined in the zoning ordinance.

Sign, Cabinet. "Cabinet Sign" means a sign in which the display face is mounted on or attached to the front of a self contained "box like" structure, which usually houses a light source, and is affixed to a building or other structure.

Sign, Pole. "Pole Sign" means a freestanding sign in which the display face of the sign is supported on a base which may be tubular, columnar or rectangular in shape and which any portion of the base or support structure has a width that is less than the width of the display surface of the sign.

Sign, Hanging. "Hanging Sign" is a sign that is suspended below a canopy, awning, or other portions of a building and typically oriented perpendicular to pedestrian or vehicular travel.

Sign, Kiosk. "Kiosk Sign" means any sign with multiple display surfaces for view by pedestrians, that illustrate the layout of a development and lists tenants and/or businesses in a specific area.

Sign, monument. "Monument Sign" means any sign affixed to a base which has a width that is equal to or greater than the width of the sign.

Section 14.12.020 Prohibited signs.

O. Pole signs in the downtown zones.

Chapter 14.16 SIGN DISTRICTS

Section 14.16.020 Residential-Office-Commercial Zone.

No sign shall be erected or maintained in an R-O-C, or R-1-B ~~or DR~~ zone, except as allowed under Section 14.12.010 or as otherwise noted in this section.

Section 14.16.040 Commercial Zone.

No sign shall be erected or maintained in the C-L, ~~DS, DC, DO, DOS, C-G and C-CS~~ zones, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding Sign.

1. **Area.** The maximum permitted display surface area of a freestanding sign shall be computed on one and one-half square feet of area per lineal foot of street or highway frontage for the first one hundred feet of such frontage, plus one square foot of area for each foot of frontage over one hundred feet, but not exceeding three hundred square feet of sign area per display surface for each sign, or a total of one thousand two hundred square feet for all display surfaces as authorized in Section 14.16.040A4.
2. **Height and/or Clearance.** The maximum height of any portion of a sign or sign structure shall be twenty-five feet from ground level at its base regardless of location. The minimum clearance below the lowest portion of a freestanding sign and the ground below shall be fourteen feet in any driveway or parking area. ~~In the DS, DC, DO, and DOS zones, properties without frontage on McLoughlin Boulevard are limited to a maximum freestanding sign height of seven feet.~~

E. Awning Sign.

1. **Area.** The maximum permitted display surface of an awning sign which is painted onto, attached to, or affixed to the surface of an awning is twenty-five percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall not exceed in area one square foot per one lineal foot of awning length.
2. **Height and/or Clearance.** An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. The minimum clearance below an awning on which signage is hung or displayed is eight feet from the sidewalk or ground level to the lowest portion of the awning, or suspended sign, whichever is lowest.
3. **Number.** One awning sign per frontage per occupancy is permitted.
4. ~~**Illumination of Awning Signs.** Awning signs shall have external illumination only in the DS, DO, DR, and DOS zones. Internal illumination is prohibited in these zones.~~

Section 14.16.050 Downtown Zones.

No sign shall be erected or maintained in the DC, DS, DO, DR and DOS zones, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding Sign. In the downtown zones, freestanding signs shall be monument type only. The sign face shall be no less than sixty percent of the total area of the monument. Pole signs are prohibited.

1. Area. The maximum permitted display surface area of a freestanding sign shall be computed on one square foot of area per lineal foot of street or highway frontage.

a. In the DO Zone the maximum area shall not exceed forty square feet per display surface and eighty square feet overall.

b. In the DR and DOS Zones the maximum area shall not exceed thirty two square feet per display surface and sixty four square feet overall.

2. Height and/or Clearance.

a. In the DC, DS and DO Zones, freestanding signs are limited to a maximum height of seven feet. Properties with frontage on McLoughlin Boulevard may have freestanding signs with a maximum height of fifteen feet and shall only be located along the McLoughlin Boulevard frontage. Freestanding sign height shall be measured from the top of the sign to the lowest finished grade within a six feet horizontal distance from the sign.

b. In the DR and DOS Zones freestanding signs are limited to a maximum height of six feet above grade.

3. Number. One freestanding sign is permitted on a street or highway frontage.

B. Wall Sign.

1. Area. The maximum permitted area of a wall sign shall be twenty percent of the building face.

a. In the DR and DOS Zones the maximum permitted area of a wall sign shall be sixteen square feet.

2. Height and/or Clearance. No wall sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher.

3. Number.

a. Dictated by area requirements.

b. In the DR and DOS Zones one wall sign is permitted in addition to one freestanding sign.

4. Location. Limited to the building surface or surfaces facing the public right-of-way only.

C. Awning Sign.

1. Area. The maximum permitted display surface of an awning sign which is painted onto, attached to, or affixed to, the surface of an awning, is twenty-five percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall not exceed in area one square foot per one lineal foot of awning length.
2. Height and/or Clearance. An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. An awning sign may not be located higher than the first floor of a building or 15 feet, whichever is less. The minimum clearance below an awning on which signage is hung or displayed is eight feet from the sidewalk or ground level to the lowest portion of the awning or suspended sign, whichever is lowest.
3. Number. One awning sign per frontage per occupancy is permitted.

D. Daily Display Sign.

1. Area. The maximum permitted area of a daily display sign shall be eight square feet per display surface and sixteen square feet overall, with a maximum height limit of six feet above ground level.
2. Number. One daily display sign per business is permitted.
3. Location. A daily display sign must be located on the premises with which it is associated, but not within required landscaped areas, except that a daily display sign may be allowed within the public right-of-way or off the premises, subject to the standards of Section 14.20.040.

E. Projecting Signs.

1. Area. Projecting signs shall not exceed in gross area twenty percent of the face of the building to which the sign is attached or on which the sign is maintained. However, if a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed twenty percent of the face of the building.
2. Height and/or Clearance. No projecting sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher. No projecting sign shall project more than five feet from a building. Overhead clearance and projection into public rights-of-way shall be maintained so that no sign shall project within two feet of the curb nor beyond the distances specified in the following table:

Table 14.16.050
Projection of Signs Into Public Rights-of-Way

<u>Maximum Projection</u>	
<u>Overhead Clearance</u>	<u>Into Public Right-of-Way</u>
<u>Less than eight feet</u> <u>above finished floor/grade</u>	<u>Not permitted</u>
<u>Eight feet</u> <u>above finished floor/grade</u>	<u>One foot</u>
<u>Eight to sixteen feet</u> <u>above finished floor/grade</u>	<u>One foot plus six inches for each foot of</u> <u>clearance in excess of eight feet</u>
<u>Over sixteen feet</u> <u>above finished floor/grade</u>	<u>Five feet</u>

3. Location. No projecting sign shall be located within twenty feet of another projecting sign. Of two signs not conforming to this provision, the first lawfully erected sign may remain.

4. Number. Only one projecting sign will be permitted on the same business frontage. No projecting sign shall be permitted on the same premises where there is a freestanding sign.

F. Under-Marquee Signs.

1. Area. Under-marquee signs shall not exceed six square feet per display surface or twelve square feet in overall sign area.

2. Height and/or Clearance. Under-marquee signs must have eight feet of clearance below the lowest portion of the sign and the ground below.

3. Location. Under-marquee signs shall not project within two feet of the curb.

4. Number. No limit, dictated by area requirements.

G. Illumination. Internally illuminated cabinet signs are discouraged in the downtown zones. Internally illuminated signs may be permitted subject to design review approval by the Design and Landmarks Commission per the procedures outlined in Section 19.1011.3. In considering internally illuminated signs, the Design and Landmarks Commission shall use the downtown design guidelines as approval criteria, as provided under

Section 19.312.7.F. All other illuminated signs may be permitted subject to the following:

1. Backlit or "Halo" illuminated signs with individual letters are permitted as illuminated signs.
2. Par spot or reflective type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.
3. Awning signs shall not be illuminated, either internally or externally unless approved by the Design and Landmarks Commission.
4. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises.

Chapter 14.32 VARIANCES

Section 14.32.010 Authorization to Grant or Deny Variance.

- A. The Planning Commission may authorize variances from the requirements of this chapter where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this chapter would cause an undue or unnecessary hardship. In granting a variance, the Planning Commission in addition to the time limitations of Section 14.32.040, may attach conditions which it finds necessary to protect the welfare of the city and otherwise achieve the purposes of this chapter.
- B. In the downtown zones the Design and Landmarks Commission is the review authority and may authorize variances from the requirements of this chapter where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this chapter would cause an undue or unnecessary hardship. In granting a variance, the Design and Landmarks Commission in addition to the time limitations of Section 14.32.040, may attach conditions which it finds necessary to protect the welfare of the city and otherwise achieve the purposes of this chapter.

Section 14.32.020 Variance procedure.

The following procedures shall be followed in applying for and acting on a variance:

- A. A property owner may initiate a request for a variance by filing an application with the City Manager, using forms required by the City Manager or duly authorized agent. The application shall be accompanied by a site plan drawn to approximate scale showing the condition to be varied and the dimensions and arrangement of the proposed sign, support structure, buildings and real property. The Planning Commission review authority may request other drawings or material essential to an understanding of the variance request.

- B. ~~The Planning Commission~~ review authority shall hold a public hearing per the provisions of Ordinance 1712, the zoning ordinance, Section 1011.3, Minor Quasi-Judicial Review, for any variance request which is twenty-five percent or more of the required standard. Variance requests of less than twenty-five percent from the standard required shall be reviewed by the Community Development Director per the provisions outlined in Section 1011.2, Administrative Type II Review, of Ordinance 1712, the Zoning Ordinance. Within five days after a decision has been rendered with reference to a request for a variance, the City Manager or duly authorized representative shall provide the applicant with notice of the decision of the ~~Planning Commission~~ review authority.

Section 14.32.030 Circumstances for Granting Variance.

~~The Planning Commission~~ review authority shall consider and make findings with respect to each of the following:

- A. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the sign ordinance;
- B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district;
- C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
- D. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district;
- E. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

Section 14.32.040 Time Limit.

- A. Authorization of a variance shall be void if the building or work approved by such variance is not commenced within six months of the date of approval.
- B. ~~The Planning Commission~~ review authority may, upon receiving a written request from the applicant prior to the variance expiration date, extend the variance for a period not to exceed one year.

Section 14.32.050 Appeals.

Appeals of ~~Planning Commission~~ or Design and Landmarks Commission decisions shall follow the procedures of Section 1000 of the Milwaukie Zoning Ordinance.

EXHIBIT C

City Council April 1, 2003

Downtown Design Guidelines Project

Compliance with Approval Criteria for Zoning Text Amendments

Consistency with Zoning Ordinance Section 900 - Amendments

1. Section 901 Initiation of Amendments

An amendment to the Milwaukie zoning map or to the text of this title may be initiated by the city council, by the planning commission, or by the application of a property owner.

The proposal was initiated by the City Council and is therefore consistent with the above.

2. Section 902 Amendment Procedure

Section 902.1 The following application and review procedures shall be in effect for all proposed amendments:

- A. The planning commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the application has been determined to be complete by the director. Zoning map amendments shall follow the procedures outlined in subsection 19.1011.4, Major Quasi-Judicial Review. Zoning text amendments shall follow the procedures outlined in subsection 19.1011.5, Legislative Actions.

The Planning Commission conducted a public hearing on February 25, 2003 in accordance with Section 1011.5.

- B. Notice to Metro. The planning department shall provide notice to metro of any proposed amendment to the comprehensive plan or zoning ordinance, subject to Milwaukie zoning ordinance subsection 19.1011.4, Major Quasi-Judicial Review, and 19.1011.5, Legislative Actions. Any copy of notice required pursuant to subsections 19.1011.4 and 19.1011.5, and provided to Oregon Department of Land Conservation and Development (DLCD) pursuant to ORS 197.610 or 197.615, shall be sent to metro's executive officer at least forty-five days before the final hearing on the adoption of any amendment. Notice to metro shall include the same content as notice to DLCD pursuant to ORS 197.610 or 197.615 and, if available, shall include

analysis demonstrating that the proposed amendments are consistent with the metro urban growth management functional plan. If the analysis demonstrating consistency with the functional plan is not included in the initial notice, a report containing the analysis shall be delivered to metro no later than fourteen days before a final hearing.

Notice was made to the Oregon Department of Land Conservation and Development on January 8, 2003 and to Metro on January 9, 2003 in accordance with the procedures above.

- C. Denial of the proposed amendment shall be final unless it is appealed to the city council as provided under Section 19.1002 of this title.

The above provision does not apply at this time.

- D. Upon approval of the proposed amendment by the planning commission, the director shall provide a report of the commission's recommendation to the city council within forty days after the hearing.

Action on the application will be consistent with the above following Commission action.

3. Section 903 Requirements for Zoning Map Amendments

Not applicable to this proposal.

4. Section 904 Approval Criteria for Zoning Text Amendments

- A. Applicable requirements of Section 19.1003.

Section 1003 specifies submission requirements for all applications. This application is consistent with Section 1003.

- B. Reasons for requesting the proposed text amendments.

The request is made in accordance with City Council direction to adopt regulations that will ensure development in the downtown is consistent in design and quality with the Downtown Plan.

- C. Explanation of how the proposed text amendment is consistent with other provisions of this title.

Other sections that apply to this action are 19.1003 and 19.905. Explanation of compliance is provided herein.

- D. The approval criteria of Section 19.905.

See Section 905 below.

5. Section 905 Approval Criteria for All Amendment

- A. The proposed amendment must conform to applicable comprehensive plan goals, policies, and objectives and be consistent with the provisions of city ordinances, metro urban growth management functional plan, and applicable regional policies.

By supporting the revitalization of the downtown through by established procedures and criteria assuring development consistent with the Downtown and Riverfront Land Use Framework Plan, the proposal is consistent with the Comprehensive Plan, Chapter 4 – Land Use, Economic Base and Industrial / Commercial Land Use Element, Objective 12 - Town Center.

The only Metro Urban Growth Management Functional Plan element that applies is Title 8 reporting requirements, which have been met for the proposed amendments.

- B. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weight these factors in determining the intent of the proposed zone.

This criterion applies to development in association with a rezoning and therefore does not apply to the proposed amendments.

- C. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.

The only Metro Urban Growth Management Functional Plan element that applies is Title 8 reporting requirements, which have been met for the proposed amendments. The proposed amendments are consistent with Statewide Planning Goals 1, Citizen Involvement and 2 Land Use Planning. There are no applicable Federal regulations.

- D. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

This criterion applies to development in association with a rezoning and therefore does not apply to the proposed amendments.

- E. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400.

The above provision does not apply to the proposed amendments.

TITLE 2 – ADMINISTRATION AND PERSONNEL

Section 2.10.010 Applicability.

D. Design and Landmarks Commission (MMC 2.18).

Section 2.18.010 Established--Purpose.

D. Review and recommend appropriate design guidelines and design review processes and procedures to the City Council.

TITLE 19 - ZONING ORDINANCE

19.312.7 Design Review.

A. Purpose

Design Review is intended to achieve the following purposes:

1. Preserve and enhance the character of Downtown Milwaukie;
2. Ensure a degree of order, harmony, and quality in the Downtown Zones, providing buildings and projects that are attractive individually yet contribute to a downtown that is unified and distinctive as a whole; and
3. To ensure that new development and alterations or enlargement of existing development are consistent with the Downtown Design Guidelines and Downtown and Riverfront Land Use Framework Plan.

B. Applicability

All new construction and changes to buildings and/or properties in the Downtown Zones involving exterior maintenance and repair, minor exterior alterations, and major exterior alterations as defined in section 19.312.6.B are subject to design review in accordance with the procedures as outlined below under Section 19.312.7.E.

C. Design Guidelines

Design Guidelines shall be established for the Downtown Zones and shall be considered as part of Design Review applications in accordance with the provisions of Section 19.312. The Design Guidelines shall be adopted by resolution of the City Council, in accordance with the procedures of Section 19.1011.5.

D. Duty to Review – Planning Director

The Planning Director shall review each application for a building permit or other approval in the Downtown Zones. The purpose of this review is to ensure that improvements within the downtown zones maintain consistent standards of design and to ensure that development is consistent with adopted design guidelines.

E. Application Procedure

Applications for Design Review shall be processed in accordance with chapter 19.1000 Type I, Type II, and Minor Quasi-Judicial procedures as indicated in this section, as follows:

1. Exterior maintenance and repair, as defined in Section 312.6.B.1, shall be processed as a Type I Review in accordance with the procedures in Section 1011.1. Exterior painting, repair, and refurbishing of existing building materials that does not require a building permit shall be exempt from Type I Review.
2. Minor exterior alterations, as defined in Section 312.6.B.2, shall be processed as a Type I Review in accordance with the procedures in Section 1011.2. The Planning Director may change a Type I review to a Type II review upon finding the following:
 - a. The work is visible from streets, courtyards, and/or public squares and significantly changes the architectural character of the building, which may include changes to exterior wall materials and changes in architectural style; and/or
 - b. The work is inconsistent with the downtown design guidelines.
3. Major exterior alterations, as defined in Section 312.6.B.3 shall be processed as Minor Quasi-Judicial Review in accordance with the procedures in Section 1011.3. Applications for major exterior alterations shall be heard in a public hearing and decided by the Design and Landmarks Commission, except as follows:

The following major exterior alterations shall be processed by Type II Review:

- a. Additions not more than 250 square feet in floor area that do not face streets, courtyards, and/or public squares and are not designed and used for utility, HVAC, or other mechanical equipment, building upgrades as needed to comply with the Americans with Disabilities Act, or egress required by applicable fire safety or building codes.

- b. Demolition or replacement of no more than 25 percent of the surface area of any exterior wall or roof that does not face streets, courtyard, and or public squares.
- 4. Residential.
 - a. "Stand-alone" residential buildings that do not include non-residential uses are exempt from design review, but shall be subject to the clear and objective design standards under Section 19.312.6. Applicants may elect to process a "stand alone" residential building design review.
 - b. Mixed-use buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under Section 19.312.6. The non-residential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.

Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the Design and Landmarks Commission.

F. Application

Applications for Design Review shall be filed with the Planning Department on forms prescribed by the Planning Director. Design Review applications shall include a narrative explaining how the development considered each of the downtown design guidelines. The applicant shall demonstrate consistency with the design guidelines and compliance with applicable zoning criteria. In addition to all information specified on the "Submission Requirements" and "Site Plan Checklist" forms, each application for design review shall be accompanied by the following information:

1. Completed Design Review Checklist.
2. Written statement that describes how the proposal meets applicable design guidelines. Where a guideline is not met, the applicant shall provide justification indicating why it is not applicable or demonstrate other site or project characteristics that warrant an exception.
3. Show footprints of surrounding buildings, including driveways and pedestrian connections.

4. Location, dimension, and setbacks of all proposed buildings, structures, walls and fences.
5. Dimensioned building elevations indicating height, exterior materials, colors and details of exterior architectural features, such as cornices, windows and trim.
6. A streetscape drawing showing the relationship of the proposed project to adjacent buildings.
7. Frontage improvements in the public right-of-way per the public area requirements.

G. Approval Criteria for Design Review

The approval authority may approve, approve with conditions, or deny design review based on the following approval criteria:

1. Compliance with Title 19; and
2. substantial consistency with the Downtown Design Guidelines; and
3. submission of a complete application and applicable fee as adopted by the City Council.

H. Report and Recommendation by Design and Landmarks Commission

When an application also requires Planning Commission approval, the Planning Director for Type II reviews, or Design and Landmarks Commission for Minor Quasi-Judicial reviews, shall make a written report of its recommendation concerning the design to the Planning Commission. After receiving the Planning Director's or Design and Landmarks Commission's recommendation, the Planning Commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.

I. Variances to Development Standards

The Design and Landmarks Commission may authorize variances to the Development Standards under Section 19.312.4 in accordance with procedures of Section 19.700.

J. Modification of Design Standards

The Design and Landmarks Commission may authorize modification of the Design Standards under Section 19.312.6.C, in accordance with the following procedures.

A modification to a design standard may be granted at a public hearing in accordance with Section 19.1011.3 when the following criteria is satisfied:

1. The modification is integral to the overall design concept for the building;
2. The modification:
 - a. Substantially meets the intent of the design standard; or
 - b. In combination with other design elements of the project, the modification meets the intent of the design standard; and
3. The project is substantially consistent with the Downtown design guidelines applicable to the design standard.

Section 19.323.4 Design and Landmarks Commission.

- A. Appointment and Composition. The Design and Landmarks Commission shall have five members appointed by the City Council for three-year terms. The City Council shall have discretion to reappoint or remove commissioners. One of the members of the commission shall have demonstrated special interest, experience, training, or knowledge in the field of historic preservation or history. One of the members of the commission shall have demonstrated special interest, experience, training, or knowledge in the field of architecture, planning, landscape design or similar field. Notwithstanding Section 2.10.030.H, one member of the Planning Commission may simultaneously serve on the Design and Landmarks Commission.

Section 19.700 Variances, Exceptions, and Home Improvements Exceptions.

Section 19.701 Variances.

The Planning Commission, Design and Landmarks Commission as provided in Section 19.312.7.H or Planning Director may authorize variances from the

standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the Planning Commission, Design and Landmarks Commission, or Planning Director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title.

Section 19.1011 Procedures.

19.1011.2 Type II Administrative Review. A Type II procedure provides for an administrative decision with the option of a public hearing.

- A. Public notification. Within fifteen days of the receipt of an application, the Director will mail a notice of tentative decision. This notice shall contain a description of the request and shall describe the tentative decision made by the Director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the Director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant, and all property owners within three hundred feet of the outer boundaries of the site. For applications in the downtown zones, notice shall also be given to the Design and Landmarks Commission. The names and addresses used for this purpose shall be those shown on the current records of the County Assessor. At least fourteen days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.
- B. Administrative Action. If a public hearing is requested, the application shall follow the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review. The Director or the applicant may immediately request a public hearing if it appears that the application has potential for controversy or there is difficulty in applying the applicable criteria. If no request for a public hearing is received by the Community Development Director, the Director may grant the application, either with or without conditions, without a hearing, if applicable criteria are met. The applicant, property owner, and all property owners within the notification area shall be renotified if a final decision is changed. If either the applicant or persons with concerns are not satisfied with the Director's decision, they may appeal per the provisions of Section 19.1002 and the matter will be subject to the provisions of subsection 19.1011.3, Minor Quasi-Judicial Review.
- C. Public Hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule"

outlined by the Community Development Department and shall follow procedures outlined in subsection 19.1001.3, Minor Quasi-Judicial Review. For applications in the downtown zones, a Design and Landmarks Commissioner may request the application be set for public hearing before the Design and Landmarks Commission.

19.1011.3 Minor Quasi-Judicial Review. A minor quasi-judicial procedure requires a public hearing in front of the Planning Commission or the Design and Landmarks Commission, as specified in this section. The Design and Landmarks Commission shall consider downtown design review, variances to developments standards in the downtown zones, and historic resource review. The Planning Commission shall consider all other minor quasi-judicial matters.

- E. **Decision.** The Planning Commission or Design and Landmarks Commission shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable comprehensive plan goals and policies and other applicable implementing ordinances. Community Development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five days after the final decision.

19.1011.5 Legislative Actions. Legislative actions provide for the establishment and modification of legislative land use policies and plans. This includes, but is not confined to a zoning ordinance or comprehensive plan text amendment, adoption of a neighborhood plan or area design guidelines, or establishment of a plan district.

- A. **Public Notification.** Notice of a hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the city, of which the second publication shall not be less than five days prior to the date of the hearing. Preliminary neighborhood meetings or other public meetings may be held, as appropriate, prior to the public hearing.
- B. **Decision.** The Planning Commission, or Design and Landmarks Commission as provided in section 19.3.12 shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan. The Planning Commission or Design and Landmarks Commission shall prepare a recommendation to the City Council. If the commission denies the proposal, and it was the initiator of the proposal, the matter shall be terminated. If the proposal was initiated by the City Council and the commission denies it, the proposal shall be forwarded to City Council with a report and recommendation of

denial. If the proposal is approved by the commission, a report and recommendation, including findings and conclusions, shall be forwarded to Council. The City Council shall conduct a public hearing. Public notification of this hearing shall be given as per subsection A above. (Ord. 1762 (part), 1994)

Section 19.1012 Recess of hearing.

The Planning Commission, City Council or Design and Landmarks Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced.

Section 14.04.030 Definitions.

"Downtown Zones" means the DS, Downtown Storefront; DC, Downtown Commercial; DO, Downtown Office; DR, Downtown Residential; and DOS, Downtown Open Space zones as defined in the zoning ordinance.

Sign, Cabinet. "Cabinet Sign" means a sign in which the display face is mounted on or attached to the front of a self contained "box like" structure, which usually houses a light source, and is affixed to a building or other structure.

Sign, Pole. "Pole Sign" means a freestanding sign in which the display face of the sign is supported on a base which may be tubular, columnar or rectangular in shape and which any portion of the base or support structure has a width that is less than the width of the display surface of the sign.

Sign, Hanging. "Hanging Sign" is a sign that is suspended below a canopy, awning, or other portions of a building and typically oriented perpendicular to pedestrian or vehicular travel.

Sign, Kiosk. "Kiosk Sign" means any sign with multiple display surfaces for view by pedestrians, that illustrate the layout of a development and lists tenants and/or businesses in a specific area.

Sign, monument. "Monument Sign" means any sign affixed to a base which has a width that is equal to or greater than the width of the sign.

Section 14.12.020 Prohibited signs.

O. Pole signs in the downtown zones.

Chapter 14.16 SIGN DISTRICTS

Section 14.16.020 Residential-Office-Commercial Zone.

No sign shall be erected or maintained in an R-O-C or R-1-B zone, except as allowed under Section 14.12.010 or as otherwise noted in this section.

Section 14.16.040 Commercial Zone.

No sign shall be erected or maintained in the C-L, C-G and C-CS zones, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding Sign.

1. Area. The maximum permitted display surface area of a freestanding sign shall be computed on one and one-half square feet of area per lineal foot of street or highway frontage for the first one hundred feet of such frontage, plus one square foot of area for each foot of frontage over one hundred feet, but not exceeding three hundred square feet of sign area per display surface for each sign, or a total of one thousand two hundred square feet for all display surfaces as authorized in Section 14.16.040A4.

2. Height and/or Clearance. The maximum height of any portion of a sign or sign structure shall be twenty-five feet from ground level at its base regardless of location. The minimum clearance below the lowest portion of a freestanding sign and the ground below shall be fourteen feet in any driveway or parking area.
- E. Awning Sign.
1. Area. The maximum permitted display surface of an awning sign which is painted onto, attached to, or affixed to the surface of an awning is twenty-five percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall not exceed in area one square foot per one lineal foot of awning length.
 2. Height and/or Clearance. An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. The minimum clearance below an awning on which signage is hung or displayed is eight feet from the sidewalk or ground level to the lowest portion of the awning, or suspended sign, whichever is lowest.
 3. Number. One awning sign per frontage per occupancy is permitted.

Section 14.16.050 Downtown Zones.

No sign shall be erected or maintained in the DC, DS, DO, DR and DOS zones, except as allowed under Section 14.12.010 or as otherwise noted in this section.

- A. Freestanding Sign. In the downtown zones, freestanding signs shall be monument type only. The sign face shall be no less than sixty percent of the total area of the monument. Pole signs are prohibited.
1. Area. The maximum permitted display surface area of a freestanding sign shall be computed on one square foot of area per lineal foot of street or highway frontage.
 - a. In the DO Zone the maximum area shall not exceed forty square feet per display surface and eighty square feet overall.
 - b. In the DR and DOS Zones the maximum area shall not exceed thirty two square feet per display surface and sixty four square feet overall.
 2. Height and/or Clearance.
 - a. In the DC, DS and DO Zones, freestanding signs are limited to a maximum height of seven feet, Properties with frontage on McLoughlin Boulevard may have freestanding signs with a maximum height of fifteen feet and shall only be located along the McLoughlin Boulevard frontage.

Freestanding sign height shall be measured from the top of the sign to the lowest finished grade within a six feet horizontal distance from the sign.

- b. In the DR and DOS Zones freestanding signs are limited to a maximum height of six feet above grade.

- 3. Number. One freestanding sign is permitted on a street or highway frontage.

B. Wall Sign.

- 1. Area. The maximum permitted area of a wall sign shall be twenty percent of the building face.

- a. In the DR and DOS Zones the maximum permitted area of a wall sign shall be sixteen square feet.

- 2. Height and/or Clearance. No wall sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher.

- 3. Number.

- a. Dictated by area requirements.

- b. In the DR and DOS Zones one wall sign is permitted in addition to one freestanding sign.

- 4. Location. Limited to the building surface or surfaces facing the public right-of-way only.

C. Awning Sign.

- 1. Area. The maximum permitted display surface of an awning sign which is painted onto, attached to, or affixed to, the surface of an awning, is twenty-five percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall not exceed in area one square foot per one lineal foot of awning length.

- 2. Height and/or Clearance. An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. An awning sign may not be located higher than the first floor of a building or 15 feet, whichever is less. The minimum clearance below an awning on which signage is hung or displayed is eight feet from the sidewalk or ground level to the lowest portion of the awning or suspended sign, whichever is lowest.

- 3. Number. One awning sign per frontage per occupancy is permitted.

D. Daily Display Sign.

- 1. Area. The maximum permitted area of a daily display sign shall be eight square feet per display surface and sixteen square feet overall, with a maximum height limit of six feet above ground level.

- 2. Number. One daily display sign per business is permitted.

3. Location. A daily display sign must be located on the premises with which it is associated, but not within required landscaped areas, except that a daily display sign may be allowed within the public right-of-way or off the premises, subject to the standards of Section 14.20.040.
- E. Projecting Signs.
 1. Area. Projecting signs shall not exceed in gross area twenty percent of the face of the building to which the sign is attached or on which the sign is maintained. However, if a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed twenty percent of the face of the building.
 2. Height and/or Clearance. No projecting sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher. No projecting sign shall project more than five feet from a building. Overhead clearance and projection into public rights-of-way shall be maintained so that no sign shall project within two feet of the curb nor beyond the distances specified in the following table:

**Table 14.16.050
Projection of Signs Into Public Rights-of-Way**

Maximum Projection	
Overhead Clearance	Into Public Right-of-Way
Less than eight feet above finished floor/grade	Not permitted
Eight feet above finished floor/grade	One foot
Eight to sixteen feet above finished floor/grade	One foot plus six inches for each foot of clearance in excess of eight feet
Over sixteen feet above finished floor/grade	Five feet

3. Location. No projecting sign shall be located within twenty feet of another projecting sign. Of two signs not conforming to this provision, the first lawfully erected sign may remain.
4. Number. Only one projecting sign will be permitted on the same business frontage. No projecting sign shall be permitted on the same premises where there is a freestanding sign.
- F. Under-Marquee Signs.

1. Area. Under-marquee signs shall not exceed six square feet per display surface or twelve square feet in overall sign area.
2. Height and/or Clearance. Under-marquee signs must have eight feet of clearance below the lowest portion of the sign and the ground below.
3. Location. Under-marquee signs shall not project within two feet of the curb.
4. Number. No limit, dictated by area requirements.
- G. Illumination. Internally illuminated cabinet signs are discouraged in the downtown zones. Internally illuminated signs may be permitted subject to design review approval by the Design and Landmarks Commission per the procedures outlined in Section 19.1011.3. In considering internally illuminated signs, the Design and Landmarks Commission shall use the downtown design guidelines as approval criteria, as provided under Section 19.312.7.F. All other illuminated signs may be permitted subject to the following:
 1. Backlit or "Halo" illuminated signs with individual letters are permitted as illuminated signs.
 2. Par spot or reflective type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.
 3. Awning signs shall not be illuminated, either internally or externally unless approved by the Design and Landmarks Commission.
 4. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises.

Chapter 14.32 VARIANCES

Section 14.32.010 Authorization to Grant or Deny Variance.

- A. The Planning Commission may authorize variances from the requirements of this chapter where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this chapter would cause an undue or unnecessary hardship. In granting a variance, the Planning Commission in addition to the time limitations of Section 14.32.040, may attach conditions which it finds necessary to protect the welfare of the city and otherwise achieve the purposes of this chapter.
- B. In the downtown zones the Design and Landmarks Commission is the review authority and may authorize variances from the requirements of this chapter where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this chapter would cause an undue or unnecessary hardship. In granting a variance, the Design and Landmarks Commission in addition to the time limitations of Section 14.32.040, may attach conditions which it finds

necessary to protect the welfare of the city and otherwise achieve the purposes of this chapter.

Section 14.32.020 Variance procedure.

The following procedures shall be followed in applying for and acting on a variance:

- A. A property owner may initiate a request for a variance by filing an application with the City Manager, using forms required by the City Manager or duly authorized agent. The application shall be accompanied by a site plan drawn to approximate scale showing the condition to be varied and the dimensions and arrangement of the proposed sign, support structure, buildings and real property. The review authority may request other drawings or material essential to an understanding of the variance request.
- B. The review authority shall hold a public hearing per the provisions of Ordinance 1712, the zoning ordinance, Section 1011.3, Minor Quasi-Judicial Review, for any variance request which is twenty-five percent or more of the required standard. Variance requests of less than twenty-five percent from the standard required shall be reviewed by the Community Development Director per the provisions outlined in Section 1011.2, Administrative Type II Review, of Ordinance 1712, the Zoning Ordinance. Within five days after a decision has been rendered with reference to a request for a variance, the City Manager or duly authorized representative shall provide the applicant with notice of the decision of the review authority.

Section 14.32.030 Circumstances for Granting Variance.

The review authority shall consider and make findings with respect to each of the following:

- A. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the sign ordinance;
- B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district;
- C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
- D. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district;

- E. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

Section 14.32.040 Time Limit.

- A. Authorization of a variance shall be void if the building or work approved by such variance is not commenced within six months of the date of approval.
- B. The review authority may, upon receiving a written request from the applicant prior to the variance expiration date, extend the variance for a period not to exceed one year.

Section 14.32.050 Appeals.

Appeals of Planning Commission or Design and Landmarks Commission decisions shall follow the procedures of Section 1000 of the Milwaukie Zoning Ordinance.